

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2143 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DIVISIONAL CONTROLLER

Versus

JAYANTILAL C THAKKAR

Appearance:

MR HARDIK C RAWAL for Petitioner

MR PM THAKKAR for Respondent No. 1

CORAM : MR.JUSTICE S.D.PANDIT

Date of decision: 09/07/96

ORAL JUDGEMENT

The Divisional Controller, Gujarat State Road Transport Corporation, Rajkot has preferred the present petition under article 227 of the Constitution of India to challenge the order passed by the Labour Court on 10.8.84 in Ref.(LRC) No. 503 of 1982.

2. The respondent Jayantilal Chunilal Thakkar was

working as a driver and on 15.2.80 he was on duty on a casual contract bus which was going from Jamnagar to Sathadhar(via Junagadh) and while returning from Sathadhar the bus was checked and it was found that five adults and two children were allowed to travel in the bus and that they were not the bonafide authorised persons to travel in the said bus. As regards this incident, the respondent was charge sheeted and on 14.3.80 the charge was framed. Thereafter, a departmental inquiry was held and ultimately order of dismissal was passed against him. He disputed the said order of dismissal and ultimately Ref.LRC) No. 503/82 was made. The learned Presiding Officer, Labour Court, Rajkot held that the order of dismissal passed against the respondent was not justified and he passed the following order in favour of the respondent.

"Gujarat State Road Transport Corporation is ordered to reinstate the workman Jayantilal Chunilal Thaker to his original post with continuity of service but without back wages, within one month from the date of publication of the award. In case of default, the workman will be entitled to full back wages from the date of default till reinstatement. Gujarat State Road Transport Corporation is ordered to pay cost of Rs. 150/to the workman."

Being aggrieved by the said decision the corporation has come before this court in writ jurisdiction.

3. During the inquiry proceedings as well as the inquiry before the Labour Court it was not at all disputed that though seven persons were found travelling in the bus, the respondent had not taken any fare or money from any of them. It has also transpired during the inquiry that as one of these persons was a saintly person the respondent was moved to allow him and his followers to travel in his bus. The misconduct committed by the respondent was of a very technical nature. There was no gain or benefit for the respondent on account of the commission of the said misconduct. Therefore, in the circumstance the discretion used by the learned Presiding Officer of the Labour Court, Rajkot under section 11A of the I.D.Act in setting aside the order of dismissal could not be said to be unjust so as to call for interference of this Court in exercise of its powers under article 227 of the Constitution of India. The learned Presiding Officer of the Labour Court, Rajkot has taken into consideration the misconduct committed by the respondent

and has also awarded sufficient punishment for the said misconduct by ordering his reinstatement without any back wages. Therefore, in the circumstances I hold that there is no merit in this petition and the same deserves to be dismissed. The petition is dismissed. Rule discharged. No order as to costs.

(S.D.Pandit.J)